IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 153 OF 2007.

Kashinath Ratanchandsheth Gujarathi
(since deceased through LRs.)
1(a). Kanta Kashinath Patel & others. ... Applicants.
Versus.
Shivchand Manakchand Lalwani & ors. ... Respondents.

Shri M.C.Shah i/by Shri N.R.Shah for the Applicants.

Shri K.K.Tated for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 4th May, 2007.

P.C.:

1. Heard Shri Shah appearing for the Applicants and Shri Tated for the Respondent No.1.

2. Shri Shah appearing for the Revision Applicants on instructions of the Revision Applicants states that without prejudice to the rights and contentions of the Revision Applicants in other pending proceedings, the Applicants are not pressing this Revision Application on merits. He submits that as the Applicants have been carrying on business in the suit premises for last several years, the Applicants may be granted a longer time to vacate. He submits that some time will be required for the Applicants to secure another accommodation for shifting their established business. He prays that the time of two years be granted to

vacate. The Advocate appearing for the 1st Respondent states that time of two years is on the higher side and he submits that a reasonable time may be granted to vacate the suit premises subject to filing usual undertakings.

3. Since the Revision Applicants are not pressing the Revision Application on merits, the litigation between the parties will attain finality in the sense that the decree for eviction shall stand confirmed. If this Revision Application was to remain pending for final hearing, it is obvious that the same could not have reached final hearing for few years.

4. Considering the fact that the Applicants are carrying on business in the suit premises for a very long time, a longer time of two years to vacte the suit premises as prayed for deserves to be granted.

5. Hence the following order is passed:

i) The Revision Application is dismissed as not pressed.

ii) Notwithstanding dismissal of the Revision Application, the decree for possession shall not be executed till 10th May 2009

subject to the Applicants filing usual undertakings to vacate the suit premises. The undertaking shall be filed in this Court on or before 11th June 2007. Copies of the undertakings be supplied to the Advocate for the 1st Respondent in advance.

iii) If usual undertakings are not filed by the Applicants within the stipulated time, the decree for possession will become executable.

iv) No order as to costs.

v) Parties to act on an authenticated copy of the order.

Judge.